

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

AARON ANTHONY VRH,

Petitioner,

v.

GENA JONES, *et al.*,

Respondents.

No. 1:20-cv-00581-JLT-CDB (HC)

ORDER DIRECTING CLERK OF THE
COURT TO REFUND FILING FEE

(Doc. 65)

Pending before the Court is Petitioner Aaron Anthony Vrh's motion, by his attorney George L. Schraer, for refund of the \$605.00 filing fee erroneously paid for Petitioner's appeal. (Doc. 65). In the motion, Petitioner's attorney represents that he contacted this Court's Financial Department but was unable to obtain cancellation or refund of his payment. Counsel represents that Petitioner is entitled to a refund as he is proceeding *in forma pauperis* in this action and, although counsel plans to file a request for a certificate of appealability in the Ninth Circuit, it is unclear whether the Ninth Circuit will grant that request and if said request is not granted, Petitioner will not be permitted to appeal. *Id.* at 2.

The Federal Rules of Appellate Procedure provide, in pertinent part:

A party who was permitted to proceed in forma pauperis in the district-court action ... may proceed on appeal in forma pauperis without further authorization, unless:

(A) the district court—before or after the notice of appeal is filed—certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or filing.

Fed. R. App. P. 24(a)(3).

1 Here, although the Court declined to issue a certificate of appealability, it did not find that
2 the appeal was taken in bad faith or that Petitioner was otherwise not entitled to proceed *in forma*
3 *pauperis*. See (Docs. 2, 59). In such circumstances, Petitioner may proceed to file his notice of
4 appeal *in forma pauperis* without the need for a second application to proceed *in forma pauperis*.
5 Petitioner must then seek a certificate of appealability from the Ninth Circuit before the appeal may
6 proceed. See, e.g., *Greenhill v. United States*, No. CR-F-94-5020, 2009 WL 1605651, at *2 (E.D.
7 Cal. June 8, 2009) (denying motion for certificate of appealability and granting *in forma pauperis*
8 application “to the extent further appellate review may be made available” by the Ninth Circuit);
9 *Denton v. Garcia*, No. CIV S-03-1558RRBJFMP, 2008 WL 410600, at *1 (E.D. Cal. Feb. 12, 2008)
10 (denying request for certificate of appealability and finding *in forma pauperis* application
11 unnecessary because petitioner was granted *in forma pauperis* status at start of the proceedings).

12 **Conclusion and Order**

13 Accordingly, the Clerk of the Court is DIRECTED to refund to counsel Petitioner’s filing
14 fee in the amount of \$605.00.

15 IT IS SO ORDERED.

16 Dated: **December 11, 2025**

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UNITED STATES MAGISTRATE JUDGE